



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Izmailov, et al.

Application No.: 09/827,432

Filed: 4/6/2001

Title: Alignment of DNA Sequencing Data
Traces

Attorney Docket No.: VGEN.P-066

Group Art Unit: 1631

Examiner: A. Marschel

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Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

In response to the Restriction Requirement mailed March 25, 2003, Applicants hereby elect Group I, claims 1-8 for prosecution in this application, **with traverse**.

The Examiner states that the apparatus of Group II may be utilized in standard sequencing methods with the storage of sequencing data only. Applicants respectfully submit that in considering whether restriction is appropriate, the Examiner must judge the potential uses of an apparatus with all of the limitations taken into account. This is why MPEP § 806.05(e) states that the second reason for restriction is if "(B) that the apparatus *as claimed* can be used to practice another and materially different process." (emphasis original). In choosing to make the restriction based on the leaving out the limitation in the apparatus claim that the processor is programmed in a way that mirrors the method steps, the Examiner is not basing the restriction requirement on the apparatus as claimed.

I hereby certify that this paper and any attachments named herein are being deposited with the US Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 12, 2003.

Marina T. Larson
Marina T. Larson, PTO Reg. No. 32,038

May 12, 2003
Date of Signature

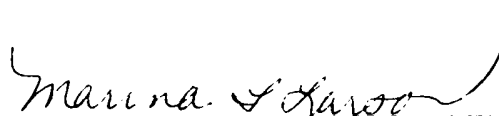
Applicants would further note that the mere designation of two classification does not establish that considering the claims of both groups in the same application would impose a burden on the Examiner. Applicants note that it is common in patents for method and apparatus claims of the type found in this application to be presented in a single case (see, for example, US Patents No. 6,554,987) and that class 702/20 is listed on patents with claims to apparatus (see for example, US Patent No. 6,436,641).

For the foregoing reasons, Applicants submit that the restriction requirement should be withdrawn and that all claims should be considered in the same application.

In accordance with the PTO-948 enclosed with the Official Action, Applicants enclose formal drawings.

Applicants request an extension of time sufficient to make this paper timely and enclose the fee as a large entity. The previous claim to small entity status is hereby withdrawn. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 15-0610.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Marina T. Larson", is written over a horizontal line.

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